

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MARYANN SIVONGXAY,) CIVIL NO. 1:16-CV-415
) (DKW-KSC)
Plaintiff,)
)
vs.)
)
MEDCAH, INC.,)
)
Defendant.)
_____)

VIDEOTAPED DEPOSITION OF GENEVIEVE FREEMAN

Taken on behalf of the Plaintiff pursuant to Notice and Rule 30(b)(6) of the Federal Rules of Civil Procedure, on Wednesday, August 2, 2017, commencing at 9:10 a.m., at the office of Certified Legal Video Services, 1111 Bishop Street, Suite 500, Honolulu, Hawaii 96813.

Ali'i Court Reporting
956 Uwao Street
Honolulu, Hawaii 96825
(808) 394-Alii

1 APPEARANCES:

2 For Plaintiff:

3 JUSTIN A. BRACKETT, ESQ.
4 Uloha/Climb Aloha Building
5 515 Ward Avenue
Honolulu, Hawaii 96814
(808) 377-6778

6 For Defendant:

7 DAVID J. MINKIN, ESQ.
8 JORDAN K. INAFUKU, ESQ.
McCorriston Miller Mukai MacKinnon LLP
9 Five Waterfront Plaza, 4th Floor
500 Ala Moana Boulevard
10 Honolulu, Hawaii 96813
(808) 529-7300

11 Also Present:

12 Thomas Gaupp, Certified Video Specialist
13 Keoni Salas, Certified Video Specialist
14 Natalie Moreland

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20 REPORTED BY: Laura Savo, CSR No. 347
21 State of Hawaii

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1 MEDCAH's policies.

2 A What policies?

3 MR. MINKIN: Objection. Vague -- wait.

4 Vague and ambiguous. What policies?

5 BY MR. BRACKETT:

6 Q Does MEDCAH use mailings to notify its
7 customers of the amounts due on their account?

8 A Yes. MEDCAH sends letters to debtors.

9 Q Okay. Does MEDCAH use credit reporting
10 to collect debts? 09:37:49

11 A No.

12 Q Does MEDCAH report to any credit bureaus?

13 A Yes.

14 Q Which credit bureau does MEDCAH report
15 to? 09:38:02

16 A Experian.

17 Q Are there any others?

18 A No.

19 Q Does MEDCAH report accurate amounts to
20 Experian? 09:38:13

21 MR. MINKIN: Objection. Vague and
22 ambiguous.

23 BY MR. BRACKETT:

24 Q You can go ahead and answer.

25 A Yes. 09:38:19

1 Q Does MEDCAH report the current amount due
2 for each account to Experian?

3 A Yes.

4 Q Did MEDCAH report Ms. Sivongxay's account
5 to any credit bureau?

09:38:32

6 MR. MINKIN: Objection. Vague and
7 ambiguous. Which account are you referring to?
8 We're dealing with a number of accounts here.

9 THE WITNESS: My question is which
10 account are you referring to?

09:38:39

11 BY MR. BRACKETT:

12 Q Did MEDCAH report Ms. Sivongxay's Oceanic
13 Time Warner Cable account to Experian?

14 A Yes.

15 Q And did MEDCAH report an accurate amount
16 due in regards to the Oceanic Time Warner Cable
17 account for Ms. Sivongxay to Experian?

09:38:52

18 MR. MINKIN: Objection. Vague and
19 ambiguous. Accurate account or amount? Excuse me.

20 BY MR. BRACKETT:

21 Q You can go ahead and answer.

22 A Yes.

23 Q Did MEDCAH report the Waianae Coast
24 Comprehensive Health Center account, that MEDCAH's
25 assigned account No. 6698, to Experian?

09:39:27

1 Q And if it's like Ms. Sivongxay's
2 situation where they pay the original creditor, the
3 full amount that they were seeking, what does MEDCAH
4 then do with the interest?

5 A Writes it off. 11:06:18

6 Q It does not continue to try to collect
7 that interest?

8 A That's correct.

9 Q Does the original creditor request that
10 that interest be written off? 11:06:40

11 A No.

12 Q Is it part of the contract?

13 A No.

14 Q So it's not part of the contract between
15 the client and MEDCAH? 11:06:55

16 A No.

17 MR. MINKIN: Asked and answered.

18 BY MR. BRACKETT:

19 Q Why does MEDCAH decide to write off that
20 interest? 11:07:07

21 A It's a business decision. In many cases,
22 it's not worth pursuing. Our objective is to get the
23 debt paid. When that's accomplished, we're done.

24 Q Does the client advise you not to pursue
25 the interest? 11:07:42

1 A No.

2 MR. MINKIN: Asked and answered.

3 BY MR. BRACKETT:

4 Q When MEDCAH receives a payment that
5 includes interest, what does MEDCAH do with the
6 interest portion of the payment?

11:07:58

7 MR. MINKIN: Objection. Lacks
8 foundation. Incomplete hypothetical.

9 If you can answer.

10 THE WITNESS: Can you clarify for me?

11:08:13

11 BY MR. BRACKETT:

12 Q Yeah. If Ms. Sivongxay were to pay you a
13 payment directly to MEDCAH --

14 A Right.

15 Q -- and MEDCAH had included interest in
16 the account balance --

11:08:21

17 A Which she did.

18 Q -- then what does MEDCAH do with that
19 interest that's been received from the consumer?

20 A Keeps it. We post the payment to the
21 debtor's account --

11:08:35

22 Q Okay.

23 A -- and we remit the appropriate amount to
24 our client, and we keep the interest and our
25 commission fee.

11:08:52

1 Q Does MEDCAH retain all the interest?

2 A Yes.

3 Q That is --

4 A What it doesn't write off, it retains.

5 MR. BRACKETT: Just to make sure my
6 videographer is happy, how much time have we got?

11:09:12

7 THE VIDEOGRAPHER: You have 10 minutes
8 left.

9 MR. BRACKETT: Okay. I wanted to make
10 sure.

11 Q Does MEDCAH receive any payments from the
12 original creditor when it collects a debt?

13 A Yes.

14 Q Does it take a percentage of the amount
15 collected?

11:09:39

16 A Elaborate for me.

17 Q So the interest MEDCAH's able to keep.
18 What about the principal portion? How does that get
19 divided?

20 A So we are a contingency-based business
21 and we keep a commission based on a contingency. So
22 when a payment is made, we get our commission rate --
23 our commission.

11:09:53

24 Q Is that a portion or percentage of the --

25 A Yes.

11:10:10

1 Q You can go ahead.

2 A I don't know that a consumer would need
3 to know that.

4 Q So if they were trying to determine which
5 accounts were being billed by MEDCAH, they couldn't
6 look at the MEDCAH documents and see that this is the
7 account that's being referenced; is that correct?

02:21:39

8 A Yes, that's correct. Unless in other
9 documents provided by Waianae Coast to the consumer,
10 like the initial billing, perhaps would have the
11 encounter number, but I wouldn't know that.

02:22:04

12 MR. BRACKETT: Okay. And I think we're
13 running out of tape, unfortunately.

14 THE VIDEOGRAPHER: Okay. We're going to
15 go off the record. The time is 2:22 p.m.

02:22:17

16 (Recess taken from 2:22 p.m. until
17 2:35 p.m.)

18 THE VIDEOGRAPHER: Okay. We are back on
19 the record. The time is 2:35 p.m.

20 BY MR. BRACKETT:

21 Q Did any of Ms. Sivongxay's creditors
22 charge interest on these accounts before they
23 transferred them to MEDCAH?

24 A Yes.

25 Q And which creditors in particular?

02:35:45